



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/565,061

07/18/2006

Uwe Osthuus

10016.519

3692

39231

7590

08/17/2009

SMITH LAW OFFICE

8000 EXCELSIOR DRIVE, SUITE 301

MADISON, WI 53717

EXAMINER

WILLIAMS, MONICA L

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

08/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,061	Applicant(s) OSTHUES ET AL.	
	Examiner MONICA L. WILLIAMS	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 33-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 33-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/10/2008 and 6/10/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 36 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the applicant's description in the specification what exactly a selection sector is? What is its structure? How exactly does it differ from the identification device?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 33-35, 41-47, 50-52, and 62-63 are rejected under 35 U.S.C. 102(b) as being anticipated by van der Lely (EP 0608941 A1).

5. In re claim 1, with reference to col.2 lines 18-28 and Figure 1, van der Lely discloses a cowshed comprising a central region, a bedding area (4) arranged at least partially around the central region, a milking area (2) extending in a substantially radially direction outward from the central region.

6. In re claim 33, with reference to col.1 lines 37-39, van der Lely discloses the milking area (2) has an automatic milking system.

Art Unit: 3644

7. In re claim 34, with reference to col.2 lines 30-33, van der Lely discloses a cow passage (12) between the milking area (2) and the bedding area (4).

8. In re claim 35, with reference to col.2 lines 30-33, van der Lely discloses a gate (13) disposed in the passage (12), for automatic movement between an open position and a closed position.

9. In re claim 41, with reference to col.2 lines 33-37, van der Lely discloses a first gangway (16) extending in a substantially peripheral direction.

10. In re claim 42, with reference to col.2 lines 33-37, van der Lely discloses a second gangway (17) spaced apart from the first gangway, and a pathway (3) extending in a substantially radial direction between the first gangway and the second gangway.

11. In re claim 43, with reference to col.2 lines 33-37, van der Lely discloses a feeding area (13).

12. In re claim 44, with reference to Figure 1, van der Lely discloses a second bedding area (11) arranged at least partially around the central region; and a feeding area (3) disposed between the bedding area (4) and the second bedding area (11).

13. In re claim 45, with reference to col.2 lines 49-52, van der Lely discloses a waiting area (15) adjacent to the milking area.

14. In re claim 46, with reference to col.3 lines 35-40, van der Lely discloses a cow driving device (33).

15. In re claim 47, with reference to col.3 lines 35-40, van der Lely discloses the driving device (33) is movable relative to the milking area (2).

Art Unit: 3644

16. In re claim 50, with reference to col.3 lines 35-40, van der Lely discloses a driving unit (33) for movement around the central region in a substantially peripheral direction.

17. In re claim 51, with reference to col.3 lines 35-40, van der Lely discloses a guide (fence/partition) in operative engagement with the driving unit (33).

18. In re claim 52, with reference to col.3 lines 35-40, van der Lely discloses the driving device (33) comprises: a controllable driving unit.

19. In re claim 62, with reference to col.3 lines 15-29, van der Lely discloses milking equipment (robot) disposed at least partially in the milking area (2); and a control unit (23) in communication with milking equipment.

20. In re claim 63, with reference to Figure 1, van der Lely discloses the cowshed is polygon-shaped and the bedding areas are disposed to one side of the polygon.

21. Claims 1, 46-49, 53, and 64-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Gabler et al (GB 1306328).

22. In re claim 1, with reference to page 1 lines 82-92 and Figures 1 and 2, Gabler et al disclose a cowshed comprising a central region, a bedding area (9-12) arranged at least partially around the central region, a milking area (4b) extending in a substantially radially direction outward from the central region.

23. In re claims 46-49 and 53, with reference to page 2 lines 80-85, 92-100, and 121-127, Gabler et al discloses a cow driving device (14,15), and the milking area (4b) is

Art Unit: 3644

movable relative to the driving device (14,15), the milking area and the driving device are both movable relative to each other, and the driving device and the milking area move in opposite directions.

24. In re claim 64, with reference to page 1 lines 82-92 and Figures 1 and 2, Gabler et al disclose the bedding areas are arranged substantially concentrically to the central region.

25. In re claim 65, with reference to page 1 lines 82-92 and Figures 1 and 2, Gabler et al disclose a second bedding area on a different elevational level than the bedding area.

26. In re claim 66, with reference to page 1 lines 82-92 and Figures 1 and 2, Gabler et al disclose a high-pitched roof (2) disposed on top of the cowshed.

27. Claim 68 is rejected under 35 U.S.C. 102(b) as being anticipated by Harmsen et al (EP 1213676 A1).

28. In re claim 68, with reference to col.6 lines 7-25 and Figure 1, Harmsen et al discloses a first cowshed (10.1) and a second cowshed (10.3), and a milking chamber (10.2) disposed between and serving the first cowshed and the second cowshed.

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3644

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely (EP 0608941 A1).

31. In re claim 67, van der Lely discloses the claimed invention as disclosed above except for a plurality of cowsheds. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made any number of cowsheds, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

32. Claims 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely (EP 0608941 A1) in view of Harmsen et al (EP 1213676 A1).

33. In re claims 36-40 as best understood from the applicant's disclosure, van der Lely discloses the claimed invention as described above except for a selection sector/cow identification device.

34. However, with reference to [0023]-[0024] and Figure 1, Harmsen et al disclose a cowshed comprising a central region, a bedding area, a milking area, a selection sector/cow identification device disposed in a passage (8.3,8.4) and also disposed in the milking area (8.1,8.2). The advantage of this is to correctly classify the animals and therefore treat the animals optimally (Harmsen et al [0007]). Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the cowshed of van der Lely with the selection sector/cow identification

Art Unit: 3644

device as taught by Harmsen et al in order to correctly classify the animals and therefore treat the animals optimally.

35. Claims 54-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely (EP 0608941 A1) in view of Gallei (3,985,103).

36. In re claims 54-59, van der Lely discloses the claimed invention as described above except for a cleaning device.

37. However, with reference to col.2 lines 23-36, Gallei discloses a housing comprising bedding areas and a cleaning device having a rotating cleaning unit (8) to loosen dirt and a sweeper (11) for picking up the dirt loosened by the cleaning unit, a transport device (5) for carrying the dirt, and a driving device (7) operatively connected to the cleaning device (8). The advantage of this is to automatically and efficiently clean the animal stalls. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the cowshed of van der Lely with a cleaning device as taught by Gallei in order to automatically and efficiently clean the animal bedding areas.

38. Claims 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely (EP 0608941 A1) in view of Moores (3,343,521).

39. In re claims 60 and 61, van der Lely discloses the claimed invention as described above except for a littering device.

Art Unit: 3644

40. However, with reference to col.1 lines 26-29, Moores discloses a cowshed comprising bedding areas and a littering device operatively connected to a driving device. The advantage of this is to automatically distribute a desired quantity of new clean litter material. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the cowshed of van der Lely with a littering device as taught by Moores in order to automatically distribute a desired quantity of new clean litter material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yvonne R. Abbott/
Signing for Michael Mansen
Supervisory Patent Examiner
Art Unit 3644

MW 08/12/2009